

**REMARKS**

In the above-mentioned, Final Office Action, all of the pending claims, claims 1-3, 5-14, and 16 were rejected. The claims were rejected under Section 103(a) over 3GPP document 3GPP 2002-06.

In the rejection, the Examiner relied upon the 3GPP document for disclosing a user equipment configured for use in a UMTS and for disclosing determination of whether a ciphering activation time for DPCH information element is present in a message received at the user equipment. The Examiner acknowledged that the 3GPP document does not disclose returning a message indicating the absence of the information element. The Examiner stated, however, that it would be obvious to modify the 3GPP document in the claimed format for the purpose of providing an efficient communication system. The Examiner also acknowledged that the 3GPP document does not disclose selection of an actuation time at the UE independent of the UTRAN but stated that the 3GPP document discloses many options when a received message does not contain the ciphering activation time for DPCH information element.

Responsive to the rejection of the rejection of the claims, independent claims 1 and 14 have been amended in manners, as set forth herein, believed better to distinguish the invention of the present application over the cited reference. Independent claims 1 and 14, as now-presented, independent claims 5 and 16, and the remaining dependent claims are believed to be patentably distinguishable over the cited reference, for reasons which

follow. The Applicant, therefore, respectfully traverses the Examiner's rejection of the claims.

In the rejection of the claims, the Examiner's specifically relied upon disclosure in the 3GPP document of a "COUNT-C activation time" and specifying "A CFN value for this EI". The Examiner indicated that the inclusion of "CONT-C activation time" and "Specifying a CFN for this EI" can be presented in the form of a message that is returned, by the UE, in response to a determination that the ciphering activation time is missing.

The Applicant asserts that the amended, independent claims are distinguishable over even this interpretation of the cited, prior art as claims 1 and 14 further recite that, in the event that the ciphering activation time for DPCCH information element is not present, of refraining from acting on the message and returning a message with an error return value. There is no disclosure or suggestion in the 3GPP document of this.

While the Examiner relies upon disclosure of the COUNT-C activation time and specifying of a CFN value for this EI, specification of a CFN value in the COUNT-C activation time IE is not the equivalent of actually sending an absence message as now-recited. By providing this indication, the UTRAN is able to decide how best to respond to the absence. The UTRAN does not have to deduce the absence, and the UTRAN is able then, e.g., to supply the IE required so that the UE does not have to independently select an activation time, and it may inform the future messaging to be sent by the UTRAN, etc.

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Furthermore, the Examiner's proposed presence of a "COUNT-C activation time" in a response message to indicate that the received message did not contain the "ciphering activation time for DPCH" would still not permit the UE to be able to fully complete the reconfiguration if "ciphering mode info" were included in a received message and a "ciphering activation time for DPCH" were absent. In contrast, the recited invention provides such a solution.

For these reasons, therefore, independent claims 1, 5, 14, and 16, as now-presented, and the remaining dependent claims dependent thereon, are believed to be in condition for allowance. Accordingly, reexamination and reconsideration for allowance of the claims is respectfully requested. Such early action is earnestly solicited.

Respectfully submitted,

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